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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/449,237	11/24/1999	JAMES PRESCOTT CURRY	23091/9001	6035

22859 7590 04/22/2003

INTELLECTUAL PROPERTY GROUP
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EXAMINER

EDELMAN, BRADLEY E

ART UNIT	PAPER NUMBER
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2153

DATE MAILED: 04/22/2003

21

Please find below and/or attached an Office communication concerning this application or proceeding.

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PR4

Advisory Action	Application No. 09/449,237	Applicant(s) CURRY, JAMES PRESCOTT	
	Examiner Bradley Edelman	Art Unit 2153	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 08 April 2003 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☒ A Notice of Appeal was filed on 08 April 2003. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: the arguments are not persuasive. See attached.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 81-93, 95-97.

Claim(s) withdrawn from consideration: _____.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____
10. ☐ Other: _____


GLENON B. BURGESS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

DETAILED ACTION

Response to Arguments

Applicant has presented arguments in the after final response filed on April 8, 2003. Examiner finds these arguments unpersuasive, for the reasons given below.

Applicant has relied on the following argument in asserting that the claims should be allowable over the prior art:

The "integration" step including a method to integrate the various forms of user input request result data from different locales, is not disclosed by Baker or Szabo and Roth, and is not obvious in view of those references. This step appears in the claims, and therefore, the claims are patentably distinct from the prior art.

Examiner respectfully disagrees with this argument. The claims do not discuss an "integration" step. The word "integrate" does not appear in the claims, and the use of the word by itself is not sufficiently descriptive to indicate an inventive feature. As discussed by Applicant in Applicant's response, claim 93 includes a step of "controlling the level of services available to the user based at least in part on the determining step, wherein a different level of services are provided to the user based at least in part on the results of determining if the request came from one of the sponsored portals located in a fitness center." This step does not state or imply an integrating function, but merely states that a different level of services will be provided to a user depending on which machine the user uses to access the system (i.e. a "sponsored" portal or a "non-

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sponsored" portal). This function is disclosed by Baker, as discussed in the previous office action.

Applicant has further argued that "the system uses the post-integration data to define the user profile and improvement plan," and "this integration step occurs at a higher level than the Baker claims and prior to the steps in Szabo and Roth." The terms "post-integration data," "integration step," do not appear in the claims, and the "level" and order in which any integration step occurs is not defined by the claims and is not clear from Applicant's arguments. Primarily, Applicant is not clear in defining what is meant by a "post-integration step," a "higher level," or integration occurring "prior" to another step.

For these reasons, the claims remain rejected.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bradley Edelman whose telephone number is (703) 306-3041. The examiner can normally be reached on Monday to Friday from 8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glen Burgess can be reached on (703) 305-4792. The fax phone numbers for the organization where this application or proceeding is assigned are as follows:


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For all After Final papers: (703) 746-7238.

For all other correspondences: (703) 746-7239.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-3900.

BE
April 21, 2003



G. BURGESS
SUPERVISOR, PATENT EXAMINER
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